



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of : **Confirmation No. 2938**
Saiko HOSOKAWA et al. : Docket No. 00177/530714 HT
Serial No. 09/467,903 : Group Art Unit 1644
Filed December 21, 1999 : Examiner R. Schwadron

HUMAN MONOCLONAL ANTIBODY :
SPECIFICALLY BINDING TO SURFACE
ANTIGEN OF CANCER CELL MEMBRANE

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REPLY BRIEF

Honorable Commissioner of Patents and Trademarks,
Washington, D.C. 20231

ATTENTION: Board of Patent Appeals and Interferences

Sir:

This Reply Brief is in furtherance to the Notice of Appeal, filed in this case on April 10, 2001, and is in response to the Examiner's Answer dated November 20, 2001. This Brief is transmitted in triplicate.

In the Answer dated November 20, 2001, the Examiner has set forth an argument which the Appellants wish to respond as follows.

The Examiner states on page 4 of the Examiner's Answer that there is no support in the specification as originally filed for the recitation of "antibody fragment" in claims 30, 35, 40 or 45, and that the scope of the term "antibody fragment" encompasses compositions containing antibody fragments not disclosed in the specification (e.g. such as Fv or Fd or F(ab).).

Applicants wish to note to the Appeal Board that the Examiner is mistaken in his understanding of claim term "antibody fragment" since the claim phrase of "*said antibody fragment having a variable region of the heavy chain which comprises the amino acid sequence shown in SEQ ID No:5 (or 11) and having a variable region of the light chain which comprises the amino acid sequence shown in SEQ ID No:6 (or 12)*" means that the antibody fragment of the present invention **necessarily comprises both a part of the heavy chain and a part of the light chain of immunoglobulin**. Accordingly, the term "antibody fragment" recited in the claims should not include the "Fd" fragment, as the Examiner has noted.

Thus, in light of the above and the Appeal Brief dated September 7, 2001, Appellants strongly believe that the rejection under 35 USC §112, first paragraph, set forth in the final rejection dated January 10, 2001, cannot be sustained and should be reversed.

Respectfully submitted,

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